

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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|----------------------------|---|-------------------------------|
| BRICIA ROSLYN PINI, |) | |
| |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | Civil No. 1:18-cv-450-AJT-MSN |
| |) | |
| PALEY, ROTHMAN, GOLDSTEIN, |) | |
| ROSENBERG, EIG & COOPER, |) | |
| CHARTERED, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

ORDER

This matter is before the Court on the Report & Recommendation of the Magistrate Judge [Doc. No. 6], recommending that the Complaint [Doc. No. 1] (“Compl.”) be dismissed for failure to state a claim on which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), and Plaintiff Bricia Roslyn Pini’s subsequent Objection to Report & Recommendation [Doc. No. 7], in which she disputes the Magistrate Judge’s conclusion that the Complaint failed to state a claim on which relief may be granted. The Court has reviewed *de novo* the contents of the Pini’s Complaint and Objection to Report & Recommendation, and concludes that Pini fails to state a claim on which relief may be granted.

The Magistrate Judge recommended dismissal of the Complaint on the grounds that the factual allegations in the Complaint, even if true, are “insufficient to establish a cause of action.” Report & Recommendation 2. In her Complaint, Pini alleges that Defendants defamed her by filing a document that challenged Pini’s statements made during her deposition in a previous case involving the parties.¹ See Compl. ¶¶ 10-16. In his Report & Recommendation, the

¹ See *Pini v. Charpentier, et al.*, 1:17-cv-739-TSE-IDD.

Magistrate Judge concluded that “Defendants’ filing is protected by absolute privilege under Virginia law.” Report & Recommendation 2 (citing *Darnell v. Davis*, 190 Va. 701, 707 (1950) (“It is settled law in Virginia that words spoken or written in judicial proceedings that are relevant and pertinent to the matter under inquiry are absolutely privileged.”)).

In her Objection to the Report & Recommendation, Pini contends that the Magistrate Judge was wrong to conclude that Defendants’ filing is protected by absolute privilege because “the [Defendants’] statements are not factual.” Objection to Report & Recommendation 1. Pini’s argument, however, is unavailing. Absolute privilege in a defamation case is not affected by whether the underlying defamatory statements are true or false. *See Lindeman v. Lesnick*, 268 Va. 532, 537, 604 S.E.2d 55, 58 (2004) (“As the designation of the rule suggests, the maker of an absolutely privileged communication is accorded complete immunity from liability even though the communication is made maliciously and with knowledge that it is false.”). As such, Pini’s assertion that Defendants’ statements are not factual does not affect Defendants’ entitlement to absolute privilege; and, therefore, the Court concludes that the Magistrate Judge was correct to conclude that Pini’s Complaint fails to state a claim upon which relief can be granted.

Accordingly, it is hereby

ORDERED that Plaintiff’s Objection to the Magistrate Judge’s Report & Recommendation be, and the same hereby is, OVERRULED and that the Court ADOPTS the Report & Recommendation of the Magistrate Judge; and it is further

ORDERED that the Complaint be, and the same hereby is, DISMISSED for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The Clerk is directed to forward copies of this Order to all counsel of record and to mail a copy to *pro se* Plaintiff Pini and to enter judgment in favor of Defendants pursuant to Fed. R. Civ. P. 58.

This is a final order for purposes of appeal. To appeal, Plaintiff must file a written Notice of Appeal with the Clerk of the Court within thirty (30) days of the date of this Order. A Notice of Appeal is a short statement stating a desire to appeal an order and identifying the date of the order Plaintiff wishes to appeal. Failure to file a timely Notice of Appeal waives Plaintiff's right to appeal this decision.



Anthony J. Trenga
United States District Judge

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United States District Judge

Alexandria, Virginia
September 5, 2018